

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.22930 of 2015

ORDER:

Heard.

The petitioners seek a Writ of Prohibition with regard to DVC No.9 of 2015 instituted by the 2nd respondent and pending before IX Metropolitan Magistrate, Cyberabad, Kukatpally. The primary ground on which the relief is sought for appears to be based on facts and on the legal notice-Ex.P-3, dated 22-07-2014, wherein the petitioners assert that the marriage between the 1st petitioner and the 2nd respondent was not consummated.

Learned counsel for the petitioners further placed reliance upon the contents of FIR No.828 of 2014, which is registered for the offences punishable under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act and pending before the Station House Officer, Kukatpally.

I do not find any ground or any material in support of the contention of the petitioners that the Court where the said DVC No.9 of 2015 is pending suffers any lack of inherent jurisdiction. On repeated questions, learned counsel for the petitioners is not able to establish as to how the learned IX Metropolitan Magistrate, before whom the said D.V.C. is pending, lacks jurisdiction to entertain the same. Though the learned counsel submits that the marriage was not consummated, it is evident from para '6' of the said DVC filed by the 2nd respondent, wherein the 2nd respondent stated as follows:-

“After celebration of marriage at Annavaram and also Vratnam there itself, all of them returned to their respective houses while the bride and bride groom went to respondent's House at BHEL on 5-12-2013 and next day on 6-12-2013 went to petitioner's house the marriage was consummated. On 7-12-2013 respondent No.1 went to his house at BHEL and on 8-12-2013 and went to Germany and the Family members of both sides also went to Airport to see him of.”

From the above, therefore, it is not possible to accept the contention of

the learned counsel for the petitioners on the point of lack of jurisdiction of the IX Metropolitan Magistrate, Cyberabad, Kukatpally.

It is well settled that for sustaining a Writ of Prohibition, the petitioners must establish inherent lack of jurisdiction of the court trying legal proceedings. So far as various allegations on facts are concerned, the petitioners are at liberty to defend themselves and the factual questions cannot be adjudicated in this writ petition in the absence of oral and documentary evidence.

Accordingly, the writ petition is dismissed. No costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

VILAS V.AFZULPURKAR, J

Date: 29-07-2015

Prv

